CALIFORNIA

Minor police encounters plummet after LAPD put limits on stopping drivers and pedestrians

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NOV. 14, 2022 5 AM PT

Last spring, Los Angeles police officials decided to deal with a problem.

Their officers, like cops across the U.S., had been trained for decades in the art of pretextual stops: Pull over a driver for a minor infraction such as broken taillight, use something vaguely suspicious — a shaking hand, a whiff of pot — to justify a search, hope to find drugs or weapons.

The tactic is legal and has led to plenty of seizures. But Los Angeles Police Department Chief Michel Moore and the civilian oversight commission were grappling with the fact that the city's Black and Latino residents were disproportionately targeted for the fishing expeditions.

So they tried to thread the needle between what is allowed under the law and what is right. Under a policy approved in March, officers must have a reason to suspect a more serious crime is afoot before initiating a pretext stop, and they are required to record their reasoning on body camera before the stop.

The change appears to be having the intended effect. A Times analysis of LAPD records has found that in the months since the new policy went into effect, officers are stopping far fewer people for the minor violations that can mark the start of pretext stops and are conducting fewer searches during those stops.

The Times found that insignificant non-moving and equipment violations, which include a wide array of offenses such as expired registration or an air freshener hanging from a rearview mirror, accounted for 12% of all traffic and pedestrian stops from April through the end of August — the five months following the implementation of the new policy. During the same five-month period last year, they made up 21% of all stops, according to the analysis of LAPD data.

The frequency with which police conduct searches during these stops has dropped slightly, but the way they go about them has changed considerably. Officers are now much less likely to rely on consent from drivers to conduct searches, which is a common tactic police use when they don't have evidence to legally justify a search. After the new policy went into effect, officers received consent to search in 24% of all searches, compared with 30% during the same five-month period last year, according to The Times' analysis.

As they became more purposeful in whom they stopped and searched, LAPD officers had more frequent success discovering contraband. Police found something illegal in 26% of the searches conducted during stops for minor violations — a slight increase compared with their success rate before the new policy.

Department officials stressed the experiment on curtailing pretext stops is in its early days, but The Times' analysis of the initial results suggest police can strike an effective balance between keeping the public safe and respecting the rights of individuals.

"What we're doing is we're explaining ourselves more and identifying the reasoning behind it, instead of, 'Well, I just had a hunch. I saw the guy and he looked like he might have been doing something. He gave me that look,' " LAPD Sgt. William Batista said. "That's not enough. We got to make sure that we're appropriately criminally profiling. We don't do racial profiling. We do criminal profiling."

Pretextual stops emerged on a significant scale in the 1980s, when the U.S. Drug Enforcement Administration began training state and local law enforcement agencies to use them as a way to pull over drivers who fit profiles of drug couriers. In Los Angeles, the tactic has been used heavily by the LAPD, especially in South L.A. and other areas where gun violence is high.

The U.S. Supreme Court has repeatedly upheld the legality of pretext stops, finding police can stop someone for a minor violation and then escalate the encounter into an investigation of something more serious if they observe something during the stop that gives them reason to suspect a crime has occurred. To search someone's belongings or vehicle, police must get the person's permission or have a higher level of certainty of a crime called probable cause.

Law enforcement officials have long defended pretext stops as a potent crime-fighting tool, but they have come under scrutiny for the racial inequities that often arise.

In the wake of high-profile killings by police of George Floyd and other Black Americans in recent years, a debate has intensified over pretext stops. Critics of the practice question whether the weapons and drugs police uncover come at too high of a cost in the form of the resentment and distrust they sow, especially in communities where people routinely have their privacy invaded by pretext searches.

One widely cited study of nearly 100 million traffic stops by researchers from Stanford University and New York University found that Black drivers were searched 1½ to 2 times more often than white motorists, even though whites were more likely to be in possession of drugs, guns or other contraband.

Similar racial inequalities have played out in Los Angeles.

At the time the civilian oversight commission was considering the new rules for pretext stops, William Briggs, the panel's president, cited a 2019 Times investigation that found that specialized crime suppression units from the department's Metropolitan Division had been stopping Black drivers at a rate that was significantly higher than the size of their population, and that across the department Black and Latino motorists were searched more often than white drivers despite being less likely to have contraband on them.

Under LAPD's new rules, before officers can make pretext stops, they are required to record themselves on video cameras they wear stating their reasons for suspecting a more serious crime. Officers who fail to do so will first be retrained and then receive increasingly severe discipline for subsequent violations.

The policy's effect on the city's heavily Black communities has been significant. The Times found Los Angeles police are less frequently using small infractions as a reason to stop Black people.

Between April and August last year, minor equipment and non-moving violations accounted for 25% of all stops of Black drivers. During the same period this year, that total fell by 10 percentage points. Black people, however, are still subjected to these types of stops at a higher rate than Latino or white people.

Police are searching Black people slightly less frequently since the new policy went into effect and asking for their consent to search less often as well, The Times found.

During traffic stops, a consent search occurs when officers receive permission from the driver or owner of the vehicle for permission to search it. Getting permission to search absolves the officers of needing to have probable cause to believe the search would turn up evidence of a crime.

Critics decry the practice, saying people are typically unaware of their right not to give consent or are too afraid to do so, making the consent they give meaningless.

Overall, police made 2,990 fewer seizures of illegal items from April to August this year compared with the same period last year. That decrease includes 374 fewer firearms and 1,693 fewer seizures of drugs, the analysis shows.

This drop in seizures comes amid a broader, years-long decline in police activity that includes a steep falloff in arrests, stops and other benchmarks.

Lizabeth Rhodes, the LAPD's director of constitutional policing and policy, said the department was "cautiously optimistic" that the overall decline in stops and searches — and those involving Black drivers in particular — were a sign the department was better balancing the pursuit of criminals with respect for the communities it polices. She cautioned against reading too much into the analysis results, saying several months of stops are not enough to draw definitive conclusions.

Under the new rules, Rhodes said, officers who observe something that technically violates a traffic law or a city code, but doesn't put anyone at risk, are expected to not make a traffic stop.

"We have to be more efficient," she said. "You know, we want to really enforce public safety, not ticky-tack stuff."

But the LAPD's new policy on pretext stops does not explicitly define the type or amount of information an officer must have to justify pulling someone over.

Officers, it says, are expected to use their "training, experience and expertise" when deciding whether to make a stop and cannot base their decision "on a mere hunch or on generalized characteristics such as a person's race, gender, age, homeless circumstance, or presence in a high-crime location."

That vagueness and other concerns were at the heart of objections that the union representing LAPD's rank-and-file raised about the new policy.

Officers from the Police Protective League tried to persuade the commission not to adopt the rules, saying they would hinder the understaffed LAPD's efforts to fight rising violent crime. And the uncertainty around what was and wasn't permitted under the policy would make officers reluctant to do proactive police work, they said.

Policing critics, meanwhile, argued the new policy didn't go nearly far enough and was a toothless reform that provides cover for officers without addressing underlying complaints of racially biased policing targeting people of color based on invisible biases.

USC law professor Jody Armour said the persistent racial disparities in who is pulled over point to a need for an outright ban on pretextual stops, which he called a vestige of a bygone era of policing.

"You had the kind of powder keg that built up in L.A. through the '80s and '90s as a lot of policymakers and other decision-makers in the Southland and L.A. decided that the way to fight rising crime in L.A. was by allowing more pretextual stops, more investigative searches, more stop-and-frisk on wheels, more broken windows policing, zero tolerance policing," said Armour, who

studies race and criminal justice. “When citizens have that occur to them repeatedly, without just cause, it generates a reservoir of resentment.”

Officers Jason Goode and Michael Babel said they now rarely make stops for minor violations such as cracked windshields, broken taillights and expired registration.

“We don’t do those anymore because it’s not a public safety issue,” Babel said during a recent patrol shift in the city’s West Valley division. “It’s in the vehicle code, and we can’t enforce it. That’s the weird thing — it’s so odd.”

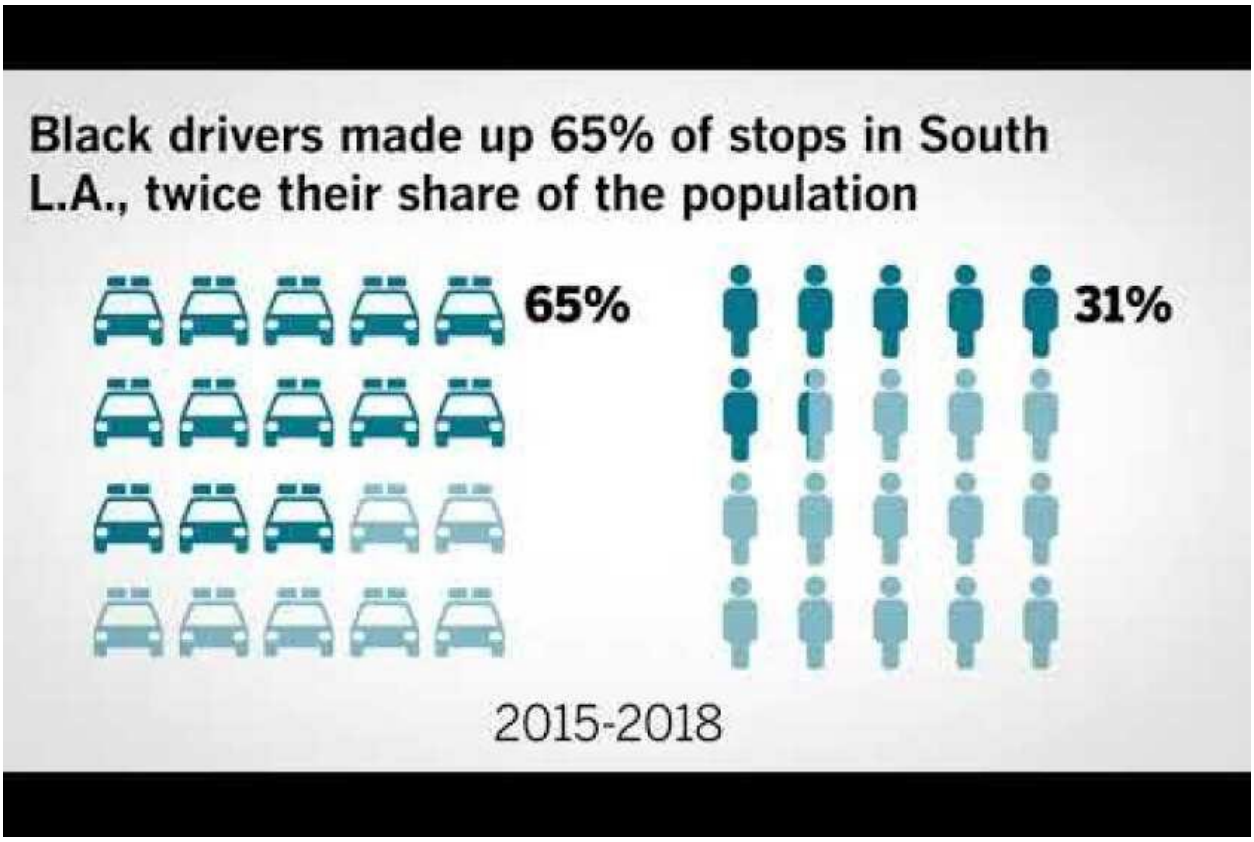
In the past, a car with heavily tinted windows and expired registration pulling out of an alley in the early morning hours would probably arouse an officer’s suspicions and lead to a traffic stop, Babel said.

Now, however, officers would need more information to justify the stop, he said.

For example, if officers knew there had been multiple burglaries recently in the neighborhood and suspected the car might be involved in them, they could make the stop, said Batista, a field supervisor in West Valley.

“Is that a pretext? Absolutely, but you had prior information of criminal activity. And as long as you identify that it was a pretext stop and you justify the reasons why you did it, it’s completely OK,” he said.

Minor police stops plummet after LAPD policy change - Los Angeles Times (latimes.com)



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'Stop-and-frisk in a car:' Elite LAPD unit disproportionately stopped black drivers, data show

Jan. 24, 2019

Jack Glaser, a professor of public policy at UC Berkeley who studies racial disparities in policing, said the policy on pretext stops has created a disincentive for officers to make minor stops.

The new guidelines require officers "to justify in their own minds how a stop might be evaluated if somebody watches the video," Glaser said. "So they're going to be more thoughtful and more discerning."

The higher rates of contraband found since the policy took effect indicate that officers are being more selective about who they decide to stop and search, he said.

"I think what it means is that officers are capable of observing valid indicators of criminal suspicion," he said.

In recent months, San Francisco and Philadelphia have joined a growing list of cities to adopt or consider similar restrictions on how police handle minor violations, which critics say have been used historically to boost the coffers of cash-hungry municipalities and left poor drivers struggling to pay fines and fees.

In Los Angeles, more extreme ideas such as having unarmed workers handle traffic stops instead of police have been considered in recent years but not gained traction. A promised study by the city transportation department has been pushed back repeatedly for nearly three years since the City Council ordered it.

After months of inaction, the council recently passed two competing motions to study the feasibility of non-police responses to certain incidents, including traffic stops.

In 2019, after The Times reported on stark racial disparities in traffic stops made by the LAPD's Metropolitan Division units, Mayor Eric Garcetti ordered the department to scale back on vehicle stops. LAPD officials eventually acknowledged the strategy of flooding high-crime areas with the units and setting them loose to make pretext stops had been ineffective.

A separate review by the LAPD's inspector general confirmed The Times' findings while also observing that such stops were "of limited effectiveness in identifying evidence of illegal firearms or other serious crimes," with only 2% of traffic stops resulting in an arrest.

In Watts, a predominantly Latino and Black neighborhood in which deep mistrust of the police persists after decades of aggressive tactics, residents said the effect of the new policy has yet to be felt, despite the neighborhood experiencing one of the steepest declines in stops for minor violations.

Numbers are one thing, but the reality is that officers still too often treat members of the community with outright "hostility," according to LaTonya Harrison, a Black woman who worries about her three sons being profiled.

Police, she said, still seem more interested in stopping people for minor offenses than addressing more serious crimes. “They would rather target that than come when you need them.”

Ophelia Montgomery said she also fears for her sons’ safety in encounters with law enforcement, especially her 16-year-old son, who at 6 feet 4 looks older than he is.

“Police look at how he’s tall, a dark-skinned young man,” she said. “They look at him like he’s no good.”